



JOHN BEL EDWARDS
GOVERNOR

State of Louisiana
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF CONSERVATION

THOMAS F. HARRIS
SECRETARY

RICHARD P. IEYOUB
COMMISSIONER OF CONSERVATION

September 17, 2021

Scott Anderson
Environmental Defense Fund
301 Congress Avenue
Austin, TX 78701

RE: Class VI USEPA Primacy Application Comment

Dear Mr. Anderson:

Thank you for providing comments on the Class VI USEPA Primacy Application. Please see our responses below.

Comment 1 LDNR Response:

Louisiana Department of Natural Resources recognizes that environmental justice (EJ) considerations are an important part of Class VI permitting process. Regarding concerns as to EJSCREEN, new details on the use of the EJSCREEN have been included in the revised program description. As a potential screening tool for pre-decisional use, EJSCREEN can be used as a starting point for conducting further analysis. However, EJSCREEN will not be the definitive tool for a screening-level analysis. Peer-reviewed literature, stakeholder input, and other available forms of data may be used to evaluate the need for the applicant to conduct a more in depth EJ analysis.

Further requirements regarding EJ analysis methods and forms of enhanced public outreach will be detailed in future guidance. EDF's recommendations regarding public participation and report evaluation will be taken into consideration during the development of EJ guidance.

EJ reviews will only be required for communities within the region surrounding the geologic sequestration project where USDWs may be endangered by the injection activity, known as the area of review (AOR). Injection wells are regulated under the Underground Injection Control (UIC) program as implemented by the Office of Conservation (LOC) Injection and Mining Division (IMD). Surface facilities not associated with injection operations such as pipelines and facilities in other states are beyond the regulatory scope of the UIC program. As such, the EJ review as part of the Class VI injection well application will be limited to the geographic extent of the AOR.

The SOS Decision Questions are mandated by judicial decision pursuant to the Public Trust Doctrine and are part of the permit decision process. LOC does not have the statutory authority to add supplemental questions

Injection and Mining Division
617 North 3rd Street • 8th Floor • Baton Rouge, Louisiana 70802
Phone (225) 342-5515 • www.dnr.state.la.us/conservation
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beyond the five required questions. LOC has the authority to weigh the responses to the SOS Decision Questions as part of the permit decision process, but LOC has not identified any legal basis to deny an application based on the results of an EJ assessment.

Comment 2 LDNR Response:

Please see the revised program description for updated funding expectations. The \$750,000 cap on the Louisiana Carbon Dioxide Geologic Storage Trust Fund (GSF) was removed with the Louisiana Legislature's passage of HB 572 in the 2021 Regular Session. Additionally, HB 572 enables LOC to charge the applicant a permit fee not to exceed the cost of permit review and authorizes the contracting of professional services to assist with permit or application reviews.

Comment 3 LDNR Response:

LDNR concurs with EDF on the importance of accounting for induced seismicity. The EPA currently does not have regulations regarding induced seismicity for Class VI injection wells, so this is not required as part of the Class VI primacy application. However, LOC is developing clear requirements for assessing seismicity as part of the permit review process. This guidance will include provisions to account for the evolution of technology in this emerging field. The promulgation of this guidance will be considered in future rulemaking.

Yours very truly,

Richard P. Ieyoub
Commissioner of Conservation



Stephen H. Lee, Director
Injection and Mining Division

CC: Adam Peltz, EDF
Jenna Graham, EDF